

4-38-1. Short title.

This chapter shall be known as the "Utah Horse Regulation Act."

Enacted by Chapter 296, 1992 General Session

4-38-2. Definitions.

As used in this chapter:

(1) "Commission" means the Utah Horse Racing Commission created by this chapter.

(2) "Executive director" means the executive director of the commission.

(3) "Mixed meet" means a race meet that includes races by more than one breed of horse.

(4) "Race meet" means the entire period of time for which a licensee has been approved by the commission to hold horse races.

(5) "Racetrack facility" means a racetrack within Utah approved by the commission for the racing of horses, including the track surface, grandstands, clubhouse, all animal housing and handling areas, and other areas in which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials.

(6) "Recognized race meet" means a race meet recognized by a national horse breed association.

(7) "Utah bred horse" means a horse that is sired by a stallion standing in Utah at the time the dam was bred.

Amended by Chapter 64, 1993 General Session

4-38-3. Utah Horse Racing Commission.

(1) (a) There is created within the Department the Utah Horse Racing Commission.

(b) (i) The commission shall consist of five members who shall be U.S. citizens, Utah residents, and qualified voters of Utah.

(ii) Each member shall have an interest in horse racing.

(c) (i) The governor shall appoint the members of the commission.

(ii) The governor shall appoint commission members from a list of nominees submitted by the commissioner of agriculture and food.

(d) (i) The members of the commission shall be appointed to four-year terms.

(ii) A commission member may not serve more than two consecutive terms.

(e) Each member shall hold office until his or her successor is appointed and qualified.

(f) Vacancies on the commission shall be filled by appointment by the governor for the unexpired term.

(g) (i) A member may be removed from office by the governor for cause after a public hearing.

(ii) Notice of the hearing shall fix the time and place of the hearing and shall specify the charges.

(iii) Copies of the notice of the hearing shall be served on the member by

mailing it to the member at his last known address at least 10 days before the date fixed for the hearing.

(iv) The governor may designate a hearing officer to preside over the hearing and report his findings to the governor.

(2) (a) The members of the commission shall annually elect a commission chair.

(b) Three members of the commission shall constitute a quorum for the transaction of any business of the commission.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) All claims and expenditures made under this chapter shall be first audited and passed upon by the commission and when approved shall be paid in the manner provided by law for payment of claims against the state.

(5) Any member of the commission who has a personal or private interest in any matter proposed or pending before the commission shall publicly disclose this fact to the commission and may not vote on the matter.

(6) Any member of the commission who owns or who has any interest or whose spouse or member of his immediate family has any interest in a horse participating in a race shall disclose that interest and may not participate in any commission decision involving that race.

Amended by Chapter 461, 2013 General Session

4-38-4. Powers and duties of commission.

(1) The commission shall:

(a) license, regulate, and supervise all persons involved in the racing of horses as provided in this chapter;

(b) license, regulate, and supervise all recognized race meets held in this state under the terms of this chapter;

(c) cause the various places where recognized race meets are held to be visited and inspected at least once a year;

(d) assist in procuring public liability insurance coverage from a private insurance company for those licensees unable to otherwise obtain the insurance required under this chapter;

(e) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern race meets, including rules:

(i) to resolve scheduling conflicts and settle disputes among licensees;

(ii) to supervise, discipline, suspend, fine, and bar from events all persons required to be licensed by this chapter; and

(iii) to hold, conduct, and operate all recognized race meets conducted pursuant to this chapter;

(f) determine which persons participating, directly or indirectly, in recognized race meets require licenses;

- (g) announce the time, place, and duration of recognized race meets for which licenses shall be required; and
 - (h) establish reasonable fees for all licenses provided for under this chapter.
- (2) The commission may:
- (a) grant, suspend, or revoke licenses issued under this chapter;
 - (b) impose fines as provided in this chapter;
 - (c) access criminal history record information for all licensees and commission employees; and
 - (d) exclude from any racetrack facility in this state any person who the commission considers detrimental to the best interests of racing or any person who violates any provisions of this chapter or any rule or order of the commission.

Amended by Chapter 382, 2008 General Session

4-38-5. Executive director.

The commission shall be under the general administrative control of an executive director appointed by the commissioner with the concurrence of the commission. The executive director shall serve at the pleasure of the commissioner.

Enacted by Chapter 296, 1992 General Session

4-38-6. Public records.

All records of the commission shall be subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 382, 2008 General Session

4-38-7. Licenses -- Fees -- Duties of licensees.

- (1) The commission may grant licenses for participation in racing and other activities associated with racetracks.
- (2) The commission shall establish a schedule of fees for the application for and renewal and reinstatement of all licenses issued under this chapter.
- (3) Each person holding a license under this chapter shall comply with this chapter and with all rules promulgated and all orders issued by the commission under this chapter.
- (4) Any person who holds a recognized race meet or who participates directly or indirectly in a recognized race meet without being first licensed by the commission as required under this chapter and any person violating any provisions of this chapter is subject to penalties under Section 4-2-15.

Amended by Chapter 322, 2007 General Session

4-38-8. Stewards.

- (1) (a) The commission may delegate authority to enforce its rules and this chapter to three stewards employed by the commission at each recognized race meet. At least one of them shall be selected by the commission.

(b) Stewards shall exercise reasonable and necessary authority as designated by rules of the commission including the following:

- (i) enforce rules of the commission;
- (ii) rule on the outcome of events;
- (iii) evict from an event any person who has been convicted of bookmaking, bribery, or attempts to alter the outcome of any race through tampering with any animal that is not in accordance with this chapter or the rules of the commission;
- (iv) levy fines not to exceed \$2,500 for violations of rules of the commission, which fines shall be reported daily and paid to the commission within 48 hours of imposition and notice;
- (v) suspend licenses not to exceed one year for violations of rules of the commission, which suspension shall be reported to the commission daily; and
- (vi) recommend that the commission impose fines or suspensions greater than permitted by Subsections (1)(b)(iv) and (v).

(2) If a majority of the stewards agree, they may impose fines or suspend licenses.

(3) (a) Any fine or license suspension imposed by a steward may be appealed in writing to the commission within five days after its imposition. The commission may affirm or reverse the decision of a steward or may increase or decrease any fine or suspension.

(b) A fine imposed by the commission under this section or Section 4-38-9 may not exceed \$10,000.

(c) Suspensions of a license may be for any period of time but shall be commensurate with the seriousness of the offense.

Amended by Chapter 324, 2010 General Session

4-38-9. Investigation -- License denial and suspension -- Grounds for revocation -- Fines.

(1) The commission or its board of stewards of a recognized race meet, upon their own motion may, and upon verified complaint in writing of any person shall, investigate the activities of any licensee within the state or any licensed person upon the premises of a racetrack facility.

(2) The commission or board of stewards may fine, suspend a license, or deny an application for a license.

(3) The commission may revoke a license, if the licensee has committed any of the following violations:

- (a) substantial or willful misrepresentation;
- (b) disregard for or violation of any provisions of this chapter or of any rule promulgated by the commission;
- (c) conviction of a felony under the laws of this or any other state or of the United States, a certified copy of the judgment of the court of conviction of which shall be presumptive evidence of the conviction in any hearing held under this section;
- (d) fraud, willful misrepresentation, or deceit in racing;
- (e) falsification, misrepresentation, or omission of required information in a license application to the commission;

- (f) failure to disclose to the commission a complete ownership or beneficial interest in a horse entered to be raced;
- (g) misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of racing animals;
- (h) failure to comply with any order or rulings of the commission, the stewards, or a racing official pertaining to a racing matter;
- (i) ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;
- (j) being unqualified by experience or competence to perform the activity permitted by the license possessed or being applied for;
- (k) employment or harboring of any unlicensed person on the premises of a racetrack facility;
- (l) discontinuance of or ineligibility for the activity for which the license was issued;
- (m) being currently under suspension or revocation of a racing license in another racing jurisdiction;
- (n) possession on the premises of a racetrack facility of:
 - (i) firearms; or
 - (ii) a battery, buzzer, electrical device, or other appliance other than a whip which could be used to alter the speed of a horse in a race or while working out or schooling;
- (o) possession, on the premises of a racetrack facility, by a person other than a licensed veterinarian of a hypodermic needle, hypodermic syringe, or other similar device that may be used in administering medicine internally in a horse, or any substance, compound items, or combination of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a horse unless specifically authorized by a commission-approved veterinarian;
- (p) cruelty to or neglect of a horse;
- (q) offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of such act immediately to the stewards, the patrol judges, or the commission;
- (r) causing, attempting to cause, or participation in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of such act immediately to the stewards, the patrol judges, or the commission;
- (s) entering, or aiding and abetting the entry of, a horse ineligible or unqualified for the race entered;
- (t) willfully or unjustifiably entering or racing any horse in any race under any name or designation other than the name or designation assigned to the animal by and registered with the official recognized registry for that breed of animal, or willfully setting on foot, instigating, engaging in, or in any way furthering any act by which any horse is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for the breed of animal; or
- (u) racing at a racetrack facility without having that horse registered to race at that racetrack facility.

(4) (a) Any person who fails to pay in a timely manner any fine imposed pursuant to this chapter shall pay, in addition to the fine due, a penalty amount equal to the fine.

(b) Any person who submits to the commission a check in payment of a fine or license fee requirement imposed pursuant to this chapter, which is not honored by the financial institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine.

Amended by Chapter 4, 1993 General Session
Amended by Chapter 64, 1993 General Session

4-38-10. Race meets -- Licenses -- Fairs.

(1) Each person making application for a license to hold a race meet under this chapter shall file an application with the commission which shall set forth the time, place, and number of days the race meet will continue, and other information the commission may require.

(2) A person who has been convicted of a crime involving moral turpitude may not be issued a license to hold a race meet.

(3) (a) The license issued shall specify the kind and character of the race meet to be held, the number of days the race meet shall continue, and the number of races per day.

(b) The licensee shall pay in advance of the scheduled race meet to the commission a fee of not less than \$25. If unforeseen obstacles arise which prevent the holding or completion of any race meet, the license fee held may be refunded to the licensee if the commission considers the reason for failure to hold or complete the race meet sufficient.

(4) (a) Any unexpired license held by any person who violates any of the provisions of this chapter, or who fails to pay to the commission any fees required under this chapter, shall be subject to cancellation and revocation by the commission.

(b) This cancellation shall be made only after a summary hearing before the commission, of which seven days notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation. At the hearing, the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

(5) (a) Fair boards or fair districts that conduct race meets in connection with regularly scheduled annual fairs shall be exempt from payment of the fees provided in this section, unless they sponsor a race in which the speed indexes are officially recognized under breed requirements.

(b) All fair boards and fair meets shall be limited to 14 race days, unless otherwise permitted by a unanimous vote of the commission.

(6) The exemption from the payment of fees under Subsection (5)(a) does not apply to those qualifying for official speed index races.

Amended by Chapter 64, 1993 General Session

4-38-11. Stimulation or retardation of animals prohibited -- Tests.

(1) Any person who uses or permits the use of any mechanical or electrical

device, or drug of any kind, to stimulate or retard any animal in any race authorized by this chapter, except as prescribed by the commission, is guilty of a class A misdemeanor.

(2) A commission member or race steward may cause tests to be made that they consider proper to determine whether any animal has been stimulated or retarded. Tests performed in furtherance of this section shall be conducted by or under the supervision of a licensed Utah veterinarian.

Enacted by Chapter 296, 1992 General Session

4-38-12. Bribery and touting prohibited.

Any person who gives or promises or attempts to give, or any person who receives or agrees to receive or attempts to receive, any money, bribe, or thing of value with intent to influence any person to dishonestly umpire, manage, direct, judge, preside, officiate at, or participate in any race conducted under this chapter with the intent or purpose that the result of the race will be affected or influenced thereby, is guilty of a felony of the third degree and subject to a fine of not more than \$10,000.

Enacted by Chapter 296, 1992 General Session

4-38-13. Race meet escrow.

Each race meet licensee shall deposit in escrow all added money and money from payment races in a FDIC bank that has received prior approval from the commission. All payment deposits shall be made in a timely manner determined by the commission, and each licensee shall provide proof of deposits as required by the commission.

Enacted by Chapter 296, 1992 General Session

4-38-14. Hearings.

(1) Except as otherwise provided in this section, all proceedings before the commission or its hearing officer with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

(2) These proceedings shall be held in the county where the commission has its office or in any other place the commission designates. The commission shall notify the applicant or licensee by mailing, by first class mail, a copy of the written notice required to the last address furnished by the application or licensee to the commission at least seven days in advance of the hearing.

(3) The commission may delegate its authority to conduct hearings with respect to the denial or suspension of licenses or the imposition of a fine to a hearing officer.

(4) Proceedings before the board of stewards need not be governed by the procedural or other requirements of the Administrative Procedures Act, but rather shall be conducted in accordance with rules adopted by the commission.

(5) The commission and the board of stewards may administer oaths and affirmations, sign and issue subpoenas, order the production of documents and other

evidence, and regulate the course of the hearing pursuant to rules adopted by it.

(6) Any person aggrieved by a final order or ruling issued by a board of stewards may appeal the order or ruling to the commission pursuant to procedural rules adopted by the commission. The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.

Amended by Chapter 382, 2008 General Session

4-38-15. Gambling disclaimer.

Nothing in this chapter may be construed to legalize or permit any form of gambling.

Enacted by Chapter 296, 1992 General Session

4-38-16. Horse Racing Account created -- Contents -- Use of account money.

(1) There is created within the General Fund a restricted account known as the Horse Racing Account.

(2) The Horse Racing Account consists of:

- (a) license fees collected under this chapter;
- (b) revenue from fines imposed under this chapter; and
- (c) interest on account money.

(3) Upon appropriation by the Legislature, money from the account shall be used for the administration of this chapter, including paying the costs of:

- (a) public liability insurance;
- (b) stewards;
- (c) veterinarians; and
- (d) drug testing.

Enacted by Chapter 64, 1993 General Session